

## ***Appendix D. Assessment Report***

### **IDENTIFICATION AND ASSESSMENT OF SOLID WASTE ISSUES RAISED DURING THE INTERVIEWS**

#### **EXECUTIVE SUMMARY**

This identification and assessment report is based on a series of interviews conducted by Jeff Edelstein of Edelstein Associates, under contract to the Maine State Planning Office, by phone or in person between July 15, 2005 and August 19, 2005, with approximately 30 individuals or organizations involved with and/or interested in solid waste management. This assessment was conducted to collect and provide background information for the convening of a solid waste task force in September of 2005. The statutory requirements for this task force and a list of the categories of people interviewed can be found at the end of this report.

The interviewees indicated that there are a number of solid waste management policy issues that merit review, particularly in light of two factors:

- Possible changes in technology, knowledge and Maine circumstances that have occurred since the enactment of the Maine Hazardous Waste, Septage and Solid Waste Management Act in 1979, and development of ensuing regulations (and additional legislation) over the following 26 years.
- Significant recent or pending changes in disposal capacity in Maine (West Old Town, Lewiston, Maine Energy, and/or others).

Based on the interviews, the following are the major categories of concern that were identified regarding solid waste management policy in Maine:

- Solid Waste Hierarchy – how and when is it applied? Should the hierarchy be reviewed relative to current technology, state of knowledge and Maine circumstances?
- Disposal Capacity – what will the impacts be of new capacity at West Old Town, Lewiston, and possibly other commercially-operated facilities? Are current state policies regarding importation of out-of-state waste appropriate?
- Roles of state, municipal and commercial sectors – are the roles played by these sectors optimized to leverage their strengths?
- Local communities – do these communities (including host communities) have the appropriate degree of control and compensation?
- Construction and Demolition Debris – what should be done to improve management of this material?
- Material bans – are these being developed based on best available science? How can the burdens imposed by these programs be mitigated?
- Recycling – how can recycling rates be increased?
- Regional approaches – how can the state appropriately foster these?
- Public education – identified as an important need for solid waste and recycling issues.

## TASK FORCE STRUCTURE

### *Task Force Goals:*

Utilize input from Task Force members and others to assist the State Planning Office in its assessment of:

- Identification of solid waste issues of concern
- Perceived problems with current state policy
- Impacts of those problems on stakeholders and the state
- Possible policy changes to address those problems
- Impacts of those possible policy changes on stakeholders and the state
- Additional information and data needed to inform decision-making on these issues

### *Participation:*

The task force will be made up of appointed members representing a cross-section of solid waste management programs and sectors, attempting to strike an appropriate balance between adequate/proportional representation and the need to keep the group at a manageable size. Any other interested parties are welcome to attend task force meetings. The task force process will attempt to operate in a manner that allows any interested party to participate in all discussions. The benefits of this approach are:

- 1) It allows for the introduction of the broadest array of ideas and information, increasing the opportunities to develop solutions to the policy questions.
- 2) It maximizes the involvement of diverse representatives within each waste management sector, ensuring accurate representation of each sector's interests.

For the purposes of efficiency, task force deliberations will be conducted in a manner that avoids redundant discussions by multiple representatives of identified sectors, while allowing the introduction of diverse viewpoints. If this approach proves to be unwieldy, then the task force will limit discussions to appointed members, with separate time allotted for input from other interested parties. All interested parties will be asked to identify their affiliations and involvement with solid waste issues, in order to attribute their input to the appropriate participant category. It should be noted that the task force will not be making recommendations by vote (see decision-making process below).

### *Expected decision-making process, task force report, and attribution:*

The primary focus of the task force will be to provide SPO with valid information about the environmental, economic, and social impacts of current state policies and the impacts of possible changes to those policies. If/when there is disagreement on the impacts of a particular policy, the task force will attempt to identify mutually-acceptable methods to determine the impact(s). The task force report will present the differing viewpoints of the various solid waste management program or sectors regarding policy impacts, as well as any subsequent assessment by SPO of policy impacts. A secondary focus of the task force will be to assess the acceptability to the various solid waste management sectors of potential policy changes. The task force report will present the various viewpoints of the participants regarding possible policy changes and will identify any policy changes that have broad support.

### *Scope of the Task Force's Mandate:*

SPO will consult with the joint standing committee of the Legislature on Natural Resources during the course of the task force effort.

Listed below are more detailed descriptions of interviewee comments on the issues summarized above. It should be strongly noted that because the comments are intended to accurately convey each person's perspectives, the comments have not been checked or revised for factual accuracy. The order of the issues is based on the author's judgment of the overall importance expressed by the interviewees. The order of the comments within each category is not based on importance to the interviewees. At the end of each category are listed the policy questions that are raised by their comments.

### **Solid Waste Hierarchy (Reduction, Reuse, Recycling, Composting, Volume Reduction, Land Disposal)**

#### *Interviewee Comments:*

- At time the hierarchy was developed, energy prices were higher, interest in volume reduction was high. Now, some of Maine's WTE plants are approaching design lives and landfills are achieving increased energy recovery, increased control of leachate and increased volume reduction.
- Hierarchy should take into account broad environmental impacts, including energy and climate change considerations, and long-term risks and monitoring needs.
- Past investment decisions in waste-to-energy facilities were made based on the solid waste hierarchy.
- Landfilling versus incineration is a situational issue; other states have done a good job looking at the system as an integrated whole, rather than a hierarchical approach.
- Mass-burn incineration facilities should be assessed separately from with refuse-derived-fuel facilities.
- There is no existing comprehensive scientific analysis of the environmental impacts of incineration versus landfilling.
- A stronger affirmation of the hierarchy and a unified voice on the hierarchy between DEP, SPO, other state agencies the legislature and municipalities is needed. Without this, use of recycled materials is not reaching its full potential.
- The hierarchy should be revisited – what are the reasons for recycling, are they still valid?
- Subjectivity and lack of predictability inhibit investments in recycling and reuse.
- It is not clear when the hierarchy is applied in state and municipal policymaking and permitting

#### *Policy questions:*

*What problems currently exist regarding the role of the hierarchy in policymaking, permitting and other activities?*

*Should the role of the hierarchy in policymaking, permitting or other activities be changed; more frequent usage, less frequent usage, greater certainty and predictability about usage of the hierarchy?*

*Should the hierarchy be revised, such as moving landfilling to be equal to or higher than incineration?*

## **Disposal Capacity**

### *Interviewee Comments:*

- Concern that airspace is a precious commodity with long-term value and shouldn't be used for construction and demolition debris or out-of-state waste (some stakeholders expressed that some out-of-state waste should be allowed, but only as much MSW as is needed to augment WTE facility fuel needs or as much CDD as is needed to produce boiler fuel). Suggested that there should be a surcharge on MSW going to landfills, instead of the current system in which fees are charged for WTE residuals going to landfills.
- Concern about the definition of out-of-state waste at West Old Town landfill, particularly unburnable residue from CDD, Front-end Process Residue from WTE facilities and "bypass" from WTE facilities.
- Concerns about the impact that increased commercially-operated landfilling (Lewiston, West Old Town) will have on publicly-owned waste-to-energy or landfill facilities by pulling waste away from these facilities, some of which have significant sunk costs. Lower tip fees at these facilities may allow short-term savings to waste generators (municipal and private), but could increase long-term uncertainty and risk.
- Concern that if a publicly-owned facility shuts down, due to communities choosing short-term lower tip fees elsewhere, then it could be impossible politically to restart that facility at a later date.
- Some publicly-owned facilities have made policy decisions based on assigning value to long-term conservation of airspace (such as increased recycling, even if more expense than current disposal costs).
- Interest in using the public benefit determination more frequently.
- Interest and concern about increased control of disposal capacity by private companies.
- Concern that vertical increases in landfill airspace are not given as much regulatory scrutiny as footprint expansions.
- Concerns about where southern Maine waste will go if Maine Energy is closed.
- Maine has enough unpopulated areas that future facilities can be sited away from people.

### *Policy questions:*

*What are the short and long term impacts of using public and private airspace for CDD and out-of-state waste? Should the state change its policies in order to preserve long-term airspace?*

*What are the short and long term impacts of the potential increased capacity from West Old Town, Lewiston, and other possible facilities? If lower tip fees (either short or long-term) for newly-available airspace at these facilities will draw waste away from existing public-owned disposal facilities, should the state play a role to influence the impact on these existing public-owned facilities?*

*What are the short and long term impacts of the possible closure of Maine Energy?*

*Should the restrictions on development or expansion of commercial solid waste disposal facilities be maintained as is, tightened, or relaxed?*

*Is there a compelling interest for the state to help keep the eight municipal landfills open?*

*Is there a compelling interest for the state to help keep publicly-owned waste-to-energy facilities open?*

*Should the public benefit determination be used to a greater degree?*

*Is there a need for generic facility siting criteria?*

*Should the state pursue the development of a state-owned landfill in Southern Maine?*

## **Roles for state, municipalities, and commercial sectors**

### *Interviewee comments:*

- Concern that the roles of these sectors are not aligned for the best interests of the state.
- Concern that some publicly-owned facilities were built based on the policy of no new commercial solid waste disposal facilities and that recent events have eroded that policy and will negatively impact some publicly-owned facilities.
- Concern that the economically rational strategy for commercially-operated landfills is to fill them as quickly as possible.
- Interest in having the state work more closely with local communities that host solid waste facilities.
- Concern about oversight of state-owned facilities in which the state is also the regulator.
- Need to revisit the roles of the state agencies: planning, regulatory, data collection, funding.
- DEP should be more of an “environmental police force”.
- Concern about how to keep DEP staff’s relationships with the regulated community from influencing the effectiveness of DEP regulatory enforcement.
- Interest in maintaining consistency and predictability in state policies among agencies and the legislature.
- Concern that the legislature can ignore agency policies.
- State should be collecting more fees on materials going into West Old Town and possibly other locations, to support state solid waste activities.
- Concern that the \$25/ton fee to DEP for aggregate from CDD processing could influence policy decisions regarding out-of-state CDD.

### *Policy questions:*

*In what ways, if any, could the roles played by the state, municipal and commercial sectors be modified to leverage the strengths of each sector to the greatest advantage of the state?*

## **Host Communities**

### *Interviewee comments:*

- Host communities should have an independent environmental review body.

- State statute leaves host community agreements undefined – would help to define better.
- Facilities should not be allowed to operate until host community agreement finalized.
- Interest in giving host communities the authority to issue cease and desist orders.
- Interest in a system like Massachusetts where local Board of Health has certain approval authority for solid waste facilities.
- Interest in allowing municipalities to be stricter than the state in solid waste regulation; it was expressed that this is the norm in all other areas of regulation in Maine.

*Policy questions:*

*Should the role of host communities be more clearly defined and should the authority and rights of host communities be changed?*

### **Construction and Demolition Debris (CDD)**

*Interviewee comments:*

- CDD shouldn't be landfilled.
- Creating lower cost options for disposal of CDD is important for the state's economy.
- CDD that originates outside of Maine should be considered out-of-state waste.
- CDD shouldn't contain any MSW.
- Concern that national landscape is going opposite to Maine – NH did a moratorium on burning CDD; Massachusetts banned landfilling of CDD.

*Policy questions:*

*Are state policy changes needed to address CDD management?*

### **Material Bans**

*Interviewee comments:*

- Concern that bans are not based on highest degree of risk or best science – an overall statewide prioritization and strategy should be developed to determine which materials are most problematic in the waste stream.
- Household hazardous waste and universal waste are unfunded mandates that drive up the cost of municipal operations.
- Administrative costs to handle universal wastes are high – determining manufacturer, serial numbers, etc.

*Policy questions:*

*Are state policy changes needed to improve the approach to problem materials in the waste stream?*

## **Recycling**

### *Interviewee comments:*

- Interest amongst many interviewees to increase recycling.
- Increase the use of market-based approaches.
- Increase the use of incentives.
- Give lower tip fees for solid waste disposal to communities with higher recycling rates.
- Increase the use of regional approaches.
- Increase opportunities for apartment dwellers.
- Increase amount of recycling from the business sector.
- Increase composting, such as food waste – “can’t achieve 50% goal without doing this” “last frontier, need more public education”.
- Single-stream recycling will increase quantities.
- More public education at state level.
- Provide more technical assistance to solid waste and recycling program operators, such as workshops on marketing approaches, roundtable discussions on topical issues, etc.
- More creative economic-based approaches to reaching the 50% goal should be developed.
- Look to other countries (examples given of New Zealand and Halifax, Nova Scotia) for methods to increase recycling.
- Examine lessons from Maine communities – look at communities with recycling rates in the top 10% and bottom 10% in Maine to see what has worked and what hasn’t.
- Other states have done better – result of leadership and bringing state agencies together.
- Collect fees on MSW disposal to support recycling, battery collection sites, etc.

### *Policy questions:*

*Are state policy changes needed to address recycling?*

## **Regional Approaches**

### *Interviewee comments:*

- There are not enough incentives or penalties to move communities towards regional solutions.
- Host community benefits should be developed for creating regional facilities.
- Regionalization grants should be made available to others besides municipalities.
- Regional household hazardous waste programs would be beneficial, by allowing for more frequent collection of materials.

### *Policy questions:*

*Are state policy changes needed to address regional approaches?*

## **Public Education**

*Interviewee comments:*

- Increased public education by the state is needed on solid waste issues and recycling (repeated by a number of stakeholders).

*Policy questions:*

*Are state policy changes needed to address public education?*

## **Other issues**

- Waste that is classified as hazardous in other states is entering Maine and being classified non-hazardous here.
- No accounting is done of industrial wastes, such as sludge, chemicals, etc.
- Interest in increasing the accuracy of SPO's quantity tracking data.
- Overweight trucks are having a negative impact on Maine roads and are causing the state to lose fuel tax revenues.
- Waste-hauling trucks should not be exempt from air emission standards.

*Policy questions:*

*Are state policy changes needed to address these other issues?*

## **Assumptions/realities (proposed by interviewees)**

- No such thing as a 100% emission-free incinerator
- No such thing as a 100% problem-free landfill
- No such thing as a waste-free society
- Maine has 4 waste-to-energy plants (2 publicly-owned, 1 public/private partnership, 1 privately-owned) that owe \$140 million
- Courts have found it unconstitutional for states to prohibit the importation of out-of-state waste into commercial solid waste and recycling facilities.
- Flow-control may be constitutional when a disposal facility is publicly-owned